IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE TWENTY SECOND DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE MR JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1102 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 15/07/2004 in WP NO : 20630 of 2003 on the file of the High Court.)

Between:

N.V.S. Murthy, S/o. Late Surayya,
R/o.H.No.6-8-2, Nidamarthyvari Street, T. Nagar,
Rajahmundry, East Godavari District.

..... APPELLANT

AND

1 The Commissioner of Endowments, Endowments Department, Buggulakunta,
Tilak Road, Hyderabad.
2 The Joint Commissioner (Estates), O/o. The Commissioner of Endowments,
Endowments Department, Buggulakunta, Tilak Road, Hyderabad.
3 The Deputy Commissioner of Endowments, Endowments Department, Kakinada, E.G.District.

4 The Assistant Commissioner of Endowments, Endowments Department, Rajahmundry, E.G.District.
5 National Senior Basic School @ Desiya Vidyalaya, Rajahmundry, rep. by the Executive Officer/
Person-in-Management,.

6 B. Jayadev, S/o. late B. Giri Babu,
R/o. 2-56-8, Sambu Nagar, Rajahmundry, East Godavari District.
7 M/s. Vaishnavi Enterprises, Rep. by its Managing Partner, Challa Shankar Rao,
S/o. Late Appa Rao, R/o. 79-8-2, Postal Colony,
Rajahmundry, East Godavari District.

.....RESPONDENTS

Counsel for the Appellant : MR.V.L.N.G.K.MURTHY

Counsel for the Respondents 1 to 4: GP FOR ENDOWMENTS .

Counsel for the respondent No.5: Mr. Badana Bhaskar Rao

Counsel for the respondent No.6 : Mr.C.V. Mohan Reddy.

Counsel for the respondent No.7 : Smt. N. Indrani.

The Court made the following :

ORAL JUDGMENT:

(Per Hon'ble The Chief Justice)

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1. Order is against interim order passed on 05.07.2004 vacating status quo order passed in W.P.No.20630 of 2003. Appellant is the writ petitioner. Affected parties are 6th and 7th respondents.

2. Appellant's grievance is that vacation of interim order would adversely affect the petitioner and thereby will cause irreparable loss and injury. Therefore, during the pendency of the petition, status quo ought to have been directed to be continued to be maintained.

3. Challenge in the writ petition is to the order dated 4.9.2003 made by 1st respondent and consequent sale deed executed by 5th respondent in favour of 6th respondent and a subsequent sale deed executed by 6th respondent in favour of 7th respondent. Petitioner claimed to have got possession pursuant to execution of a decree and his apprehension is that respondents are likely to take possession of the property if respondents produce the order and consequent sale deed before the authority during the pendency of the writ

petition. Therefore, a direction was sought not to alienate the property nor create charge in favour of third party nor to dispossess him.

4. We have duly considered the submissions made at the bar and we are of the view that even if some alienations would take place, the same would always be subject to result of the writ petition, and moreover in case petitioner is in occupation of the property, he cannot be evicted otherwise than by due course of law by the respondents and there cannot be any injunction restraining the respondents not to have recourse to the proceedings in accordance with law. The only direction which can be issued in these proceedings would be that in case any proceedings are taken out by the respondents against the petitioner and in case decree is obtained by them against the possession of the petitioner, petitioner will not be actually evicted from the premises except with express permission of the law. Ordered accordingly. Appeal stands disposed of. No costs.

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DEVINDER GUPTA, C.J.,

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C.V. RAMULU. J.,

Dated: 22.07.2004.

VRK.

To

1 The Commissioner of Endowments, Endowments Department, Buggulakunta,
Tilak Road, Hyderabad.
2 The Joint Commissioner (Estates), O/o. The Commissioner of Endowments,
Endowments Department, Buggulakunta, Tilak Road, Hyderabad.
3 The Deputy Commissioner of Endowments, Endowments Department, Kakinada, E.G.District.
4 The Assistant Commissioner of Endowments, Endowments Department, Rajahmundry, E.G.District.
5 . Two CCs to G.P. for Endowments, High Court Buildings, Hydeabad (OUT)

5. Two CD copies.

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE C.V. RAMULU.

W.A.NO. 1102 OF 2004.

(Judgment of the Bench delivered by

Hon'ble The Chief Justice)

Dt: 22.07.2004.